



EMPLOYEE RELATIONS BULLETIN

December 2003

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OUR ONE YEAR ANNIVERSARY

This issue marks the one year anniversary of the Employee Relations Bulletin. During the past year, we have addressed many subjects including the role of the supervisor, how to document conduct and performance problems effectively, common documenting errors, how to effectively discuss conduct and performance problems with employees, and the available options for correcting these problems, a discussion that will continue in this issue of the Bulletin with a review of non-disciplinary options. We have also looked at several specific problem areas – computer misuse, credit card misuse, unsatisfactory attendance, posting unofficial material on bulletin boards, soliciting or receiving gifts from outside sources and

conflicts related to post-Government employment. We have examined the differences between conduct problems and performance problems, looked at conflict resolution, and considered issues related to the accommodation of employees with medical problems that affect their work. **An Index of the Bulletin articles published during 2003 is included in this issue.**

We hope that you have found these articles to be interesting and useful. In this issue of the Bulletin, we will address several additional topics. As always, we appreciate your feedback, and would like to hear from you regarding topics that you would like to see in future issues of the Bulletin. Please email your questions, comments and ideas to us at ER.Bulletin@aphis.usda.gov.

The Employee Relations Bulletin is developed quarterly through combined efforts of a team of employee relations specialists. Current members of this team are Milo Christianson, Jodi Foley, Dennis McPeters, Michelle Parker and Mary Royster. The formatting of the Bulletin is the work of Dixie Simon, a member of the Information Technology Division in Minneapolis. We also receive articles and editorial assistance from other members of the APHIS and AMS/GIPSA Employee Relations Branches, as well as articles from other branches.

We hope that everyone has a very enjoyable Holiday Season. We look forward to a new year of working with all of you.

CORRECTING CONDUCT AND PERFORMANCE PROBLEMS

THE NON-DISCIPLINARY OPTIONS

In September we began discussing the third and final step in the process we encourage supervisors to use in dealing with conduct and performance problems. To summarize, the steps in this process are as follows:

- ✓ **Document** Conduct and Performance Problems
- ✓ **Discuss** Conduct and Performance Problems
- ✓ **Correct** Conduct and Performance Problems

In the **September Bulletin**, we discussed discipline – its purpose, its limitations and the various options available to us. As noted, although there are many times when discipline is the logical or even required course of action, it has many limitations, including the fact that it can be very time consuming, can cause hard feelings without resolving the problem, and can be overturned or modified by a third party. Fortunately, there are other available options that can be very effective, particularly in cases of minor or emerging disciplinary problems. As always, the earlier you confront a problem, the more likely that your efforts will be successful.

The following is a list of non-disciplinary options. This is by no means an exhaustive list, but it does highlight some of the more important options.

- ❖ **Counseling.** Many of the problems that we encounter in the workplace are caused, wholly or in part, by ineffective communication – the inability of people to talk, and listen, to each other. As a supervisor, establishing open and effective communication with your employees is one of your most important tasks – perhaps the most important. When you first notice that an employee is not meeting the agency's standards, or your expectations, for their conduct or performance, you need to confront the problem. In most cases, you will begin by talking to the employee. One of your tools, in this regard, is the **Discussion Model** described in the **June 2003 Bulletin**. This model provides a framework for your discussion. And don't forget the importance of listening. It may be the most critical skill for effective communication, and yet one of the most difficult to master.
- ❖ **Performance Appraisal.** This is the thing we do once a year whether we need to or not, right? Well, not exactly – at least if we want to use the tool effectively. Performance appraisal is a form of communication. To use this tool successfully, you need to make certain that appraising an employee's performance is continuous, not just something you do every quarter or once a year. When an employee receives a formal appraisal, he/she should not be surprised. Also make certain to emphasize the employee's strengths as well as weaknesses. Most employees have things that they do well, and contributions that they make. These contributions and strengths should be recognized. Finally, employee feedback should be encouraged, not discouraged. It is important that employees have an opportunity to talk, and it is important that you hear what they have to say. Remember that effective problem-solving communication is always two-way.
- ❖ **Conflict Resolution.** Sometimes you will be unable to resolve a conflict situation through your own efforts, and will need the assistance of a third party mediator or facilitator. If so, please take advantage of the programs offered by your agency. These programs were briefly noted in the **June 2003 Bulletin**, and the AMS program was described in detail in the **September 2003 Bulletin**.

Correcting Conduct and Performance Problems (Continued)

- ❖ **Training.** Training is the appropriate tool to use when a deficiency is caused by a lack of knowledge. Training comes in many forms. Your agency training staffs can give you some guidance in this area. (NOTE: The Employee Relations Branch provides group training to supervisors. If interested, contact your servicing employee relations specialist for more information.)
- ❖ **Reassignment, Detail, Voluntary Demotion.** All involve the movement of an employee to another position, either permanently (reassignment and demotion) or temporarily (detail). None should be used simply to move a problem somewhere else, and none may be used as a substitute for disciplinary action (although reassignment and detail may, under some circumstances, be used in conjunction with such action).
- ❖ **Letters of Caution and Instruction.** Both are instructional tools. **Cautions** include (1) what the employee is doing wrong, (2) what improvement is needed, and (3) the consequences if improvement is not forthcoming. **Instructions** look similar to cautions, but do not include a specific warning. Prior to issuing either a letter of caution or instruction, we would encourage you to contact your servicing employee relations specialist for guidance.
- ❖ **Employee Assistance Program.** The Employee Assistance Program is available to employees and their immediate family members. The program is voluntary and confidential, and provides assistance in dealing with a variety of issues and problems. The EAP can be accessed by calling **1-800-222-0364**.

These are a few of the more common non-disciplinary options that are available to you when dealing with a conduct or performance problem. Remember again that the earlier you confront a problem, the greater your chances of success.

We published a list of comments in the **September 2003 Bulletin** that have allegedly appeared in performance evaluations given by Federal supervisors. In response to this list, we expected numerous “please cancel our subscription” letters but, instead, were repeatedly asked – “Do you have more of this stuff?” Well, as luck would have it, yes we do. Here are a few more of our favorites (the usual disclaimers apply):

- This young lady has delusions of adequacy.
- This employee should go far, and the sooner the better.
- Got a full six pack, but lacks the plastic thing to hold it all together.
- When his IQ reaches 50, he should sell. (NOW WE'RE GETTING MEAN!)
- When she opens her mouth, it seems that it is only to change feet.
- Donated his brain to science before he was done using it.
- One neuron short of a synapse.
- It's hard to believe he beat out 1,000 other sperm.
- If he were more stupid, he'd have to be watered twice a week.
- This employee is really not so much of a has been, as a definite won't be.

ABSENCE WITHOUT OFFICIAL LEAVE

Absence without leave (AWOL) is an absence from duty, without pay, for which an employee has **not** requested and/or been granted **any** type of leave, including leave without pay (LWOP). Remember that LWOP is an approved absence. **DO NOT** grant an employee LWOP, if you have not approved their absence.

So when do you charge an employee with AWOL?

Let's suppose one of your employees does not show up for work and fails to call in to request leave. Would you charge the employee with AWOL? *Yes.* Okay, you've charged this employee with AWOL. However, the employee returns to work the following day with documentation showing that they were involved in a vehicle accident and were unconscious for 24 hours. Would you change the AWOL to an approved absence? *Of course. (Good answer!)* Each situation must be considered independently. While an absence which is not approved should be charged as AWOL, it is sometimes appropriate to change the AWOL retroactively to an approved leave category, if the circumstances warrant.



Now let's suppose one of your employees is arrested, placed in jail and calls you to request annual leave.

Would you **approve** their leave request? First you must ask yourself a few questions.

1) Would you have approved the leave request if the employee was not incarcerated? **Annual leave should not be disapproved just because the employee is incarcerated.** 2) What impact will the employee's absence have on the workplace? The use of leave is conditional on the needs of the Federal service. You should consider whether the absence is during a peak workload period and would create a serious shortage of staff. You should also consider whether the employee is a key individual with indispensable skills. 3) What is the expected length of the absence? If the absence due to incarceration extends beyond what you would normally approve for other purposes, you can then begin charging the employee with AWOL. You should, however, contact your servicing employee relations specialist to discuss first. In such situations, there may be other issues that need to be addressed.

What if your employee fails to return from lunch for three hours and is not on approved leave? *Sounds like AWOL to me.*

We all know that every situation is not a text book case, so if you are unsure about charging an employee with AWOL, please contact your employee relations specialist. AWOL is not itself considered to be disciplinary in nature; however, disciplinary action may be warranted based on the AWOL. If you have charged an employee with AWOL, contact your employee relations specialist to discuss possible corrective action.

“I DID IT MY WAY”

Great words when sung by Frank Sinatra. Sometimes so great when your employees decide to sing them. Let's look at this scenario:

Pete has always been one of your better performers. Unfortunately, he has a little attitude problem. Part of the problem is that he sometimes gets his role, and your role as the supervisor, confused. So sometimes when you ask Pete to do something, he tells you he would rather do something else. Even when he follows your instructions, he often does so with much public complaint.

Unfortunately, this is not an uncommon problem. Employees need to understand that supervisors are responsible for giving instructions to their employees, and that unless those instructions are illegal, immoral, or unsafe, they must be followed – like them or not. To resolve this problem, you will probably begin by counseling Pete, using the process and techniques that we have discussed. If this does not work, you must “draw a line in the sand” and tell Pete that in the future you will expect him to (1) carry out your instructions, and (2) do so without loud, public complaint. Then be certain to follow through with appropriate action if he does not follow your instructions (generally a letter of caution or reprimand, or a suspension, is appropriate, depending upon the seriousness of the employee's actions). Your servicing employee relations specialist can help you determine an appropriate course of action. Although supervisors are encouraged to listen to employees and consider their views, this does not mean that employees can refuse to follow their legitimate instructions. Here's another situation:

Doris is a constant complainer. You recently asked her to perform a task that was not in her job description. She told you that she did not intend to perform this task because it was not specifically noted in her job description.

This is another problem that you may encounter. Doris needs to understand that all employees must occasionally, and sometimes frequently, perform duties that are not specifically addressed in their job descriptions. A job description cannot cover every single duty that an employee may be called upon to perform. Unless the employee is performing additional duties over a significant period of time that impact upon his/her grade, it is expected that he/she will perform the duties assigned. If you have questions regarding the work you have assigned to an employee, and its impact on his/her grade, you should contact your servicing classification specialist for guidance. Here's one more situation:

Darlene is generally a good employee. She is pleasant, rarely complains, and is technically competent – that is, when she does what you tell her to do. Unfortunately, Darlene often “forgets” to carry out your instructions, and you often have to repeat them over and over before they are carried out.

I Did it My Way (Continued)

This may be the most common example of employees failing to carry out instructions. Why they fail is not always clear. But whatever the reason, the work does not get done. Supervisors often confuse this kind of behavior with unsatisfactory performance. But remember that there is a difference between misconduct and unsatisfactory performance. The latter is based on an assumption that an employee cannot perform a task – would like to, but just doesn't have the ability. In this case, Darlene is technically competent to perform the tasks she has been assigned, but for whatever reason, is not doing so. To resolve this problem, we once again begin with counseling. This is particularly important in this kind of situation, since it may provide a clue as to why she is not carrying out your instructions. If counseling fails to solve the problem, letters of caution or reprimand, and perhaps even disciplinary action, will need to follow.

These are just a few of the situations that you may encounter. The possibilities are numerous. Here are a few things to remember when dealing with employees who do not follow your instructions:

- ✓ Employees are expected to follow their supervisor's instructions unless they have a reasonable fear of death or serious injury, or unless carrying out the instruction could result in an illegal or immoral act. Otherwise the rule is "work first (or "obey first"), grieve later." Just the fact that an employee disagrees with an order does not mean that he/she doesn't have to follow it.
- ✓ Make certain to communicate your orders clearly to avoid ambiguity. Otherwise the employee may later claim that he/she did not understand the order. If necessary, put the instructions in writing (particularly if there have been previous problems).
- ✓ Make certain that the employee has the ability to comply with the order; that is, that the order is not impossible to follow.
- ✓ Avoid escalating disagreements over assignments into a tug of wills. Although you should generally encourage feedback, this is not a debate. Once the order is given, the employee is required to carry it out.
- ✓ Take action promptly if an employee refuses to comply with your instructions.

That last point is particularly important. Some employees have a habit of thinking that the absence of feedback relative to their misbehavior is a "green light" for repetition. Over time, it becomes easy for an employee to assume that this is just the way things are. Once that happens, it will be far more difficult to change the employee's behavior without serious disciplinary action.

10 RULES TO REMEMBER

The following are ten important rules that supervisors should remember when dealing with conduct or performance problems.

1. Act Early. Although one may wish that it was not so, **most problems do not fix themselves.** Most must be confronted to be fixed, and the earlier this confrontation occurs, the greater the likelihood that a small problem will not evolve into a big one. As noted, if an employee's behavior is not corrected early, there is a good chance that he/she will come to believe that the behavior is acceptable.

2. Get Help. Help is only a phone call away. Your supervisor and your servicing employee relations specialist are available to help you. Having to deal with conduct and performance problems is difficult enough, but doing so without help can be extremely challenging.

3. Focus on the Situation, Issue or Behavior. The rest of this often quoted principle is, of course, **and not on the person.** There are many reasons for doing this – it is easier to solve a problem than it is to change a person, there is a greater chance that a problem will be examined objectively when the focus is not on the person and, of course, if the focus is on the problem, it is less likely that the person will become defensive. If the latter occurs, there is a good chance that meaningful communication will cease. Remember, don't shy away from important issues that need to be addressed with an employee, but address them without personal attack. Avoid statements such as, "Let me put this in a way you can understand," or "Apparently you're not smart enough to understand and follow directions," or any other "red flag" words or phrases. These are things that we may, in anger, want to say, but to do so is not conducive to solving the problem.

4. Document Effectively. Simply gathering a lot of information does not guarantee that you are documenting effectively. Documentation is effective only if (1) it includes sufficient information to support the action taken, and (2) it is understandable. Note the articles in the **February, June and September 2003 Bulletins** regarding documentation.

5. Be Consistent. Supervisors and managers need to be consistent when dealing with employees. This does not mean that everyone is treated identically. If you have an employee who is consistently late for work, you are not going to treat that employee the same as those employees who are occasionally late for good reason. What it does mean is that you should observe the same basic standards of promptness, accuracy and efficiency for each employee.

6. Listen. Listening is a part of the communication process that we often neglect. One reason is that listening is hard work, requiring us to concentrate. Another reason may be that we don't really want to hear what the employee has to say. Perhaps, you have heard it all before. It is possible, however, that in previous conversations you did not listen as carefully as you should have and perhaps therefore, what the employee has to say has never been clearly heard. Or possibly, the employee has detected your apparent lack of interest, and has decided that talking to you is not worth the effort.

10 RULES TO REMEMBER (Continued)

7. Use the Probationary Period. Most Federal employees are required to serve a one year probationary period following their appointment. **The probationary period is the last step in the hiring process.** It is the best time to deal with a problem employee, because an employee will likely be more receptive to guidance during this period, and because termination is much easier to accomplish if improvement is not forthcoming. **Do not miss the opportunity presented by the probationary period!** Once an employee gets even one day beyond his/her probationary period, he/she receives all of the rights, and we get all of the problems, that are part of the Federal disciplinary system.

8. Manage With No Surprises. One person referred to this as the “Holiday Inn Principle” (we will let you decide, based on your own Holiday Inn experiences, if this is accurate). Management surveys indicate that the two most important things employees want to hear from managers and supervisors are (1) how am I doing? and (2) how is the organization doing? So keep your employees informed. Be certain that you clearly communicate your expectations to them. Employees have a right to know what you expect regarding their conduct and performance, and you, therefore, have a responsibility to communicate these expectations to them. Make certain that when your employees receive their annual performance evaluation, they are not surprised.

Employees should always know where they stand in regard to their performance. And finally, make certain that your employees receive whatever information you have regarding their agency, personnel matters, etc.

9. Lead by Example. Employees often mirror the behavior that they see modeled for them. Therefore, make certain that you are following the rules, if you expect your employees to do the same. Make certain that you are treating others fairly if you expect your employees to do the same. Make certain that you maintain cordial and productive relations with your employees if you expect them to do the same.

10. Maintain Constructive Relationships. Work relationships are normally long term. Therefore, it is critical that constructive relationships are maintained with employees, peers and managers. As noted, it is important that employees be treated fairly. Employees will quickly detect inequities in treatment.

THE FOUR STAGES OF LIFE

Stage 1: You believe in Santa Claus

Stage 2: You don't believe in Santa Claus

Stage 3: You are Santa Claus

Stage 4: You look like Santa Claus

happy holidays!

THOUGHT O' THE MONTH

Remember that STRESSED spelled backwards is DESSERTS.

No, we don't know what it means either – but who knew?

THE ETHICS CORNER

"EVERYONE IN THE POOL"

That may sound like a fun thing to do on a hot summer day, when the pool you are jumping into is a swimming pool. But if it is a sports betting pool and you are at work, the results may not be any fun at all.



It is fairly common, during the football season, as well as at other times of the year, to be exposed to some type of gambling pool or lottery. As long as you choose to participate on your own time and away from the worksite, there should be no problem. However, any kind of gambling while on duty or at the worksite is prohibited, and exposes the gambler/employee to possible disciplinary action.

The regulations that address this issue are found in USDA Personnel Bulletin 735-1, "USDA Employee Responsibilities and Conduct," Subpart B, Section 735-201 which states that employees are prohibited from, "(b) Conducting, or participating in, any gambling activity, including the operation of a gambling device, conducting a lottery or pool, a game for money or property, or selling or purchasing a numbers slip or ticket while on Government-owned or leased property or while on duty for the Government."

This article is meant to deter activity of this kind and, therefore, to prevent having to take disciplinary action against employees. The old expression, "Ask before you act," is applicable here, as it is for any conduct or activity which you think may be addressed in the ethics or conduct regulations covering USDA employees. You can always ask questions of your supervisor, or you can contact the employee relations specialist who services your program. The website www.usda.gov/ethics is an excellent source of information on the ethical requirements and conduct standards that apply to all of us as Government and USDA employees.



THE BULLETIN BOARD

- ✚ **The Employee Relations Bulletins are now available on the web** at <http://www.aphis.usda.gov/mrpbs/index.html>. Just click *Human Resources* and then *Employee Relations*. A current Employee Relations Directory is also available at this website.
- ✚ Please send your questions, comments and ideas to the following **email** address: ER.Bulletin@aphis.usda.gov.

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